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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/586,697	06/25/2008	Esa Rosman	3711-000119/US/NP	7838
27573 7590 04/04/2011 HARNESS, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303				
EXAMINER VAN LENTE, MICHAEL A				
ART UNIT		PAPER NUMBER		
1773				
MAIL DATE		DELIVERY MODE		
04/04/2011		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 18 March 2011 have been fully considered but they are not persuasive.
2. Applicant argues that the rejections of Claims 26-28 should be withdrawn because the reference under which these claims were rejected in the Final Rejection, US 6,251,660 B1 to MUIR, et al. (hereinafter 'Muir'), fails to disclose or suggest adjacent chamber portions of the claimed sampling and assay device being slidable relative to each other (applicant's remarks, filed 18 March 2011, page 10, third full paragraph). The examiner respectfully disagrees. Muir clearly shows adjacent chamber portions of the subject device being assembled by sliding them together (FIG. 13) and states that the portions can be attached together using "an adequately tight push fit" (col. 27, ln 59-60). The description of Muir indicates that such a fit would be achieved by sliding (FIG. 13).
3. Applicant argues, "Even if the male and female portions were joined by a 'tight push fit,' the inner diameters of the male and female portions would not be maintained contiguously with each other if they were slidable relative to each other." The examiner allows that there is a distinction between the device in operation and the process of fabrication of the device, but, in either situation, adjacent chamber portions can be said to be slidable relative to each other. The "tight push fit" described in Muir is intended to prevent sliding of the chamber portions relative to each other during operation of the device. However, one of skill in the art would reasonably assume that, with application

of sufficient force and/or torque, the device could be disassembled by sliding.

Therefore, in reference to Claim 26, which refers to the assembled device, adjacent chamber portions are slidable relative to each other. Claim 27 refers directly to a "system for assembling sampling and assay devices," and adjacent chamber portions are slidable relative to each other in this context as described by Muir. Also, in both Claim 26 and Claim 27, the phrase "slidable relative to each other" is not limited to either the device in operation or the process of fabrication of the device, so the plain claim language refers to chamber portions that are slidable in some manner relative to each other. The rejections of Claims 26-28 stand as stated in the Final Rejection dated 3 February 2011.

4. The attached Advisory Action form states that applicant's reply filed 18 March 2011 fails to place this application in condition for allowance. Reply to a final rejection or action must include cancellation of or appeal from the rejection of, each rejected claim. See 37 CFR 1.113(c). The following paragraph describes applicant's options:

5. Applicant's reply under 37 CFR 1.113 to the **final rejection** dated 3 February 2011 is limited either to an appeal to the Board of Patent Appeals and Interferences or to an amendment complying with the requirements set forth below. A **final rejection** is intended to close the prosecution of this application.

6. If applicant should desire to appeal any rejection made by the examiner, a Notice of Appeal must be filed within the period for reply identifying the rejected claim or claims appealed. The Notice of Appeal must be accompanied by the required appeal fee of \$270 for a small entity or \$540 for other than a small entity. See 37 CFR 41.20 for other

fees that will apply should applicant wish to file a brief with the appeal or request an oral hearing.

7. If applicant should desire to file an amendment, entry of a proposed amendment after final rejection cannot be made as a matter of right unless it merely cancels claims or complies with a formal requirement made earlier. Amendments touching the merits of the application which otherwise might not be proper may be admitted upon a showing a good and sufficient reasons why they are necessary and why they were not presented earlier.

8. A reply under 37 CFR 1.113 to a final rejection must include the appeal from, or cancellation of, each rejected claim. The filing of an amendment after final rejection, whether or not it is entered, does not stop the running of the statutory period for reply to the final rejection unless the examiner holds the claims to be in condition for allowance. Accordingly, if a Notice of Appeal has not been filed properly within the period for reply, or any extension of this period obtained under either 37 CFR 1.136(a) or (b), the application will become abandoned.

### ***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL VAN LENTE whose telephone number is (571)270-3267. The examiner can normally be reached on M-F, 8:30AM-5:00PM.

10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. V./  
Examiner, Art Unit 1773

/Jill Warden/  
Supervisory Patent Examiner, Art Unit 1773